

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

BILLY MORRIS

PETITIONER

v.

CIVIL ACTION NO. 3:13cv926-DPJ-FKB

JIM HOOD and SUPERINTENDENT
JOHNNIE DENMARK

RESPONDENTS

ORDER

This cause came on this date to be heard upon the Report and Recommendation [13] of the United States Magistrate Judge, after referral of hearing by this Court. Magistrate Judge F. Keith Ball recommended dismissal of Morris's petition for writ of habeas corpus as untimely. Morris did not timely file objections to the Report and Recommendation, and on May 27, 2014, the Court adopted the Report and Recommendation as the opinion of the Court [14] and entered a judgment of dismissal [16].

Thereafter, Morris filed a motion for extension of time to file objections [17]. The Court granted the motion, reopened the case, and granted Morris an extension of time, through June 23, 2014, to file objections to the Report and Recommendation [18]. Morris filed a motion for a hearing [19] on June 12, 2014, and an additional motion [20] on July 1, 2014. The Court construes the documents together as Morris's objections to the Report and Recommendation.

In his filings, Morris makes a single argument on the dispositive point—the timeliness of his petition. He asserts that under Iowa law, claims of an illegal sentence are not barred by the statute of limitations. Mot. [19] at 3; Mot. [20] at 4. But Iowa law does not control. Morris has not directed the Court to any binding authority that would support the tolling of the statute of limitations in this case, and the Court is aware of no such authority. Judge Ball correctly

concluded that the statute of limitations on Morris's habeas petition expired no later than May 18, 2012, and his petition was not filed until October 3, 2013. And as further noted by Judge Ball, Morris failed to exhaust. *See Sones v. Hargett*, 61 F.3d 410, 414 (5th Cir. 1995). The Court, having fully reviewed the Report and Recommendation of the United States Magistrate Judge entered in this cause, and being duly advised in the premises, finds that said Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of United States Magistrate Judge F. Keith Ball be, and the same is hereby, adopted as the finding of this Court. Petitioner's Motion for Hearing [19] is denied, Defendants' Motion to Dismiss [10] is granted, and the petition is dismissed with prejudice.

A separate judgment will be entered as required by Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED this the 7th day of July, 2014.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE